

**STATE OF CALIFORNIA
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LOS ANGELES REGION**

In the matter of:) **Supplemental Order on Complaint No. 98-024**
) **Administrative Civil Liability**
) **for**
City of Thousand Oaks) **Violations of California Water Code Section 13376**
) **and**
) **Order No. 96-044 (NPDES Permit No. CA0056294)**

YOU ARE HEREBY GIVEN NOTICE THAT:

1. The Regional Water Quality Control Board, Los Angeles Region (Regional Board) has found and determined that the City of Thousand Oaks (hereinafter the City) shall be assessed \$2,146,725 in administrative civil liability for violating requirements contained in Regional Board Order No. 96-044 (NPDES Permit No. CA0056294) and § 13376 of the California Water Code (CWC), for which the Regional Board may impose civil liability under § 13385 of the CWC. This Order supplements the former Directive for Complaint No. 98-024 issued August 12, 1998, the liability, findings and determination portion of which remains in effect.
2. The City owns and operates the Hill Canyon Wastewater Treatment Plant (HCTP) located in Thousand Oaks, California. The HCTP treats municipal and industrial wastewater and discharges a tertiary treated wastewater to North Fork Arroyo Conejo. The discharge is regulated under waste discharge requirements contained in Order No. 96-044 (NPDES Permit No. CA0056294) adopted by this Regional Board on June 10, 1996.
3. The City was found and determined to have violated waste discharge requirements contained in Regional Board Order No. 96-044 (NPDES Permit No. CA0056294) by failing to adequately maintain its sewer system, which contributed to a rupture of a sewer line that resulted in a discharge of approximately 86 million gallons of raw sewage to Arroyo Conejo and downstream waters, including Conejo Creek, Calleguas Creek, Mugu Lagoon and the Pacific Ocean, from February 3, 1998 to February 14, 1998.
4. On May 15, 1998, the Executive Officer of the Regional Board (Executive Officer) issued Complaint No. 98-024 against the Discharger in the amount of \$2,115,000 for the violations referenced above.
5. On August 3, 1998, the Regional Board conducted a hearing on Complaint No. 98-024. Upon consideration and deliberation of the evidence presented at the hearing, the Regional Board affirmed issuance of the Complaint and modified the assessment from \$2,115,000 to \$2,293,000 as set forth in the Directive for Complaint No. 98-024 issued August 12, 1998.

6. On August 25, 1998, the City petitioned the State Water Resources Control Board (State Board) for an administrative review of the Regional Board's actions. On December 20, 2000, the State Board dismissed the City's petition and request for administrative review.
7. On January 19, 2001, the City petitioned the Superior Court of the County of Los Angeles, State of California for a Writ of Mandate (Petition) challenging the issuance of Complaint No. 98-024. A trial was held on the Petition on December 13, 2001. On March 27, 2002, the Honorable Dzintra Janavs issued a Judgment Granting and Denying Peremptory Writ of Mandate. Judge Janavs supported the Regional Board's findings as to the City's liability, but directed the Regional Board to reconsider the penalty assessed on the Complaint "based only on the evidence present in the existing administrative record lodged with the court." Judge Janavs determined that, insofar as the penalty was based largely upon questionable economic loss, it was not supported by the evidence.
8. On October 24, 2002, the Regional Board reconsidered the penalty portion of this matter during a public meeting in the Council Chambers, City of Simi Valley, 2929 Tapo Canyon Road, Simi Valley, California.
9. Pursuant to CWC § 13385(e) as it read in 1998, the Regional Board considered the following factors, as fully set forth in the Transcript of Regional Board Proceedings attached hereto and incorporated by reference, in determining the amount of civil liability to be imposed: the nature, circumstances, extent, and gravity of the violation; with respect to the violator, the ability to pay, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violation; and other matters as justice may require.
10. At the conclusion of the reconsideration, the Regional Board modified the administrative civil liability based on evidence in the existing administrative record and the factors in § 13385(e) of the CWC. The Regional Board directed payment of a modified civil liability in the amount of \$2,146,725 as follows:

MODIFIED CIVIL LIABILITY

Penalty Category	Calculation	Total
<i>For failing to comply with Order No. 96-044</i>	CWC section 13385 (c)(2): (85,870,000 gallons – 1,000 gallons) x \$0.025/gallon	\$2,146,725
MODIFIED CIVIL LIABILITY		\$2,146,725

11. The Administrative Civil Liability is due and payable and must be received by the Regional Board by the close of business on December 20, 2002.
12. The City may propose to pay up to \$1,821,725 of the civil liability by carrying out Supplemental Environmental Projects (SEPs). In the event the City proposes to carry out SEPs, a letter clearly stating that the City will provide a proposal for SEPs and a check for the remaining \$325,000 of the assessed civil liability (payable to the State Water Resources

Control Board, Cleanup and Abatement Account) shall be received by the Regional Board no later than December 20, 2002. The SEPs proposal shall be approved by the Regional Board no later than February 21, 2003.

13. The Executive Officer, at his discretion, may extend the SEP approval deadline by no more than 30 days if it is demonstrated that the City has acted diligently in order to bring the SEPs before the Regional Board, but has been unable to do so because of circumstances beyond its control.
14. The proposal for SEPs will be subject to public notice and approval of the Regional Board. Should the Regional Board not approve the City's proposed SEPs, or should the City later fail or elect not to implement the SEPs, the unpaid remainder of the total civil liability amount of \$2,146,725 will be due and payable within 30 days of such an event.
15. In the event that the City fails to comply with the requirements of this Order, the Executive Officer is authorized to refer this matter to the Office of Attorney General for enforcement.
16. Pursuant to CWC § 13320, an aggrieved person may seek review of this Order by filing a petition within 30 days of the Regional Board reconsideration date of October 24, 2002 with the State Water Resources Control Board (SWRCB). The petition must be sent to the SWRCB, PO Box 100, Sacramento, CA 95812-0100.

IT IS HEREBY ORDERED that, pursuant to § 13323 of the CWC, the City of Thousand Oaks shall make a cash payment of \$2,146,725 (payable to the State Water Resources Control Board, Cleanup and Abatement Account) by December 20, 2002, or submit the partial payment and SEPs proposal described in paragraph 12 above.

In the event that the City fails to comply with the requirements of this Order on Complaint No. 98-024, the Executive Officer is authorized to refer this matter to the Office of Attorney General for enforcement.

I, Dennis A. Dickerson, do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board on October 24, 2002.

Dennis A. Dickerson
Executive Officer

Date